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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In application of

Kenneth J. Hines

Group Art Unit: 2122

Application No. 09/885,448

Filed: June 19, 2001

For: **BEHAVIORAL ABSTRACTIONS FOR DEBUGGING
COORDINATION-CENTRIC SOFTWARE DESIGNS**

Date: January 30, 2002

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OFFICE OF PETITIONS

PETITION UNDER 37 CFR § 1.182

TO THE COMMISSIONER FOR PATENTS:

In response to the Notice of Omitted Item(s) in a Non-Provisional Application dated November 30, 2001, applicant submits this Petition Under 37 CFR § 1.182 to request that the Office accept submission of the attached Corrected Drawings and accord the above-referenced patent application its original filing date of June 19, 2001. These drawing figures, though incorrectly labeled, were present in the application as filed. The return receipt postcard from the USPTO indicates that the USPTO received all 63 sheets of original drawings. There were no omitted items. A check for \$130 for the petition fee for a petition under 37 CFR § 1.182 is enclosed as required under 37 CFR 1.17.

The Notice of Omitted Item(s) in a Non-Provisional Application indicates that drawing Figs. 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B, and 66A-B appear to have been omitted from the application. The Notice and applicable regulations indicate that Applicants can either accept the application as filed, supply the omitted items and receive a new filing date, or petition to the Commissioner that the allegedly missing items were in fact deposited with the USPTO and supply appropriate evidence to support the petition. None of the available responses adequately resolves the situation in the above-referenced application. All of the apparently omitted figures were present in the application as filed, but they were mislabeled. As filed, Figures 56, 57, 59, 63, 64, 65 and 66 each contained distinct units that were not individually referenced with an Arabic numeral and a capital letter, but rather collectively referenced with a single figure designation, for example, "Fig.

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56.” The specification, however, referred to drawing Figures 56, 57, 59, 63, 64, 65, and 66 as Figs. 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B, and 66A-B, respectively.

There were no items omitted from the above-referenced application. As such, we request that the Commissioner accord this application its original filing date of June 19, 2001 and accept the attached corrected drawings which add no new matter to the application.

In support of this petition, applicant shows that Drawing Figures 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B, and 66A-B were present in the application as filed as presented below:

1. Applicant files this petition within the two-month deadline provided in the Notice of Omitted Item(s) in a Non-Provisional Application.

2. As filed with the patent application on June 21, 2001, Figure 56 (original drawing sheet 54 of 63), Figure 57 (original drawing sheet 55 of 63), Figure 59 (original drawing sheet 56 of 63), Figure 63 (original drawing sheet 60 of 63), Figure 64 (original drawing sheet 61 of 63), Figure 65 (original drawing sheet 62 of 63), and Figure 66 (original drawing sheet 63 of 63) contained distinct figures but were labeled only with their respective Arabic numerals and did not include the appropriate capital letters to distinguish different views.

3. The Brief Description of the Drawings section at pages 12-14 of the application refers to the drawing figures listed in the preceding paragraph as Figs. 56A-B, Figs. 57A-C, Figs. 59A-B, Figs. 63A-B, Figs. 64A-C, Figs. 65A-B, and Figs. 66A-B respectively. The specification at page 93 refers to originally filed Fig. 56 as Figs. 56A-B. The specification at page 94 refers to originally filed Fig. 57 as Figs. 57A-C. The specification at page 96-97 refers to originally filed Fig. 59 as Figs. 59A-B. The specification at page 106 refers to originally filed Fig. 63 as Figs. 63A-B. The specification at page 107 refers to originally filed Fig. 64 as Figs. 64A-C. The specification at page 108 refers to originally filed Fig. 65 as Figs. 65A-B. The specification at page 109 refers to originally filed Fig. 66 as Figs. 66A-B. Although the reference characters differ between the specification and the drawing figures, the contents of the entire drawing figures described in the specification were present in the application as originally filed.

4. Applicant filed substitute drawing sheets on October 15, 2001 in response to a Notice to File Missing Parts of Non-Provisional Application mailed on August 15, 2001, which included a requirement that substitute drawing sheets be submitted with corrected

margins. The Notice to File Missing Parts of Non-Provisional Application did not indicate that any drawing Figures appeared to be omitted, nor did it indicate that there was a reference character disparity between the drawing figures and the specification. In those substitute drawing sheets the margins were corrected in response to the Notice to File Missing Parts of Non-Provisional Application. In addition, the substitute drawings addressed various informalities of the drawing figures as filed. However, the substitute drawings did not correct the as yet unidentified reference character disparity brought to our attention by the Notice of Omitted Item(s) in a Non-Provisional Application.

5. To address the reference character disparity between the specification and the drawing figures, applicant submits corrected drawing figures which add only capital letters and Arabic numerals to individually label the multiple views present in the drawing figures listed in numeral 2 and 4 above.

6. The OIPE incorrectly treated the drawings issues described above as "omitted items." MPEP §601.01(g) states that:

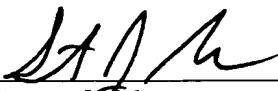
Applications are often filed with drawings with several views of the invention where the views are labeled using a number-letter combination, e.g., Fig. 1A, Fig. 1B, and Fig. 1C. OIPE will not mail a "Notice of Omitted Item(s)" if a figure which is referred to in the specification by a particular number cannot be located among the drawings, if the drawings include at least one figure labeled with that particular number in combination with a letter. For example, if the drawings show Figures 1A, 1B, and 1C and the brief description of the drawings refers only to Figure 1, this is an error in the specification which must be corrected, rather than an application filed without all figures of drawings.

The present situation is analogous to that described in the above passage. As filed, a drawing sheet that is labeled as Fig. 64 included more than one figure, while the specification refers to Figs. 64A-C, *i.e.* more than one view of what is shown in Figure 64. This is an error that should be corrected through an amendment to the drawing figures. It is not an application filed without all figures of drawings. There were no omitted items in this application.

7. A copy of the return receipt postcard from the application indicating that the USPTO received all 63 sheets of drawings figures is submitted herewith. A copy of the return receipt postcard indicating that the USPTO received all 60 sheets of substitute drawings is submitted herewith. Corrected Drawing Figures 56A-B, 57A-C, 59A-B, 63A-B, 64A-C, 65A-B, and 66A-B incorporating the above-described reference character corrections are also submitted herewith.

8. Because no items were omitted from this application, applicant respectfully request a refund of the petition fee.

Respectfully submitted,

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